

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

January 31, 2003

PROCEDURAL ORDER ON
RELEASE OF INFORMATION
FROM CONFIDENTIAL
TREATMENT

NORTHERN UTILITIES, INC.,
Petition For Approval To Participate
In Funds Pooling Agreement

Docket No. 2002-21

NORTHERN UTILITIES, INC.,
Request for Approval of Affiliated
Interest Transaction to Participate
In a Money Pool Agreement

Docket No. 2001-646

In Docket No. 2002-21, Northern Utilities, Inc. (Northern) provided a copy of the NiSource corporation's Securities and Exchange Commission's (SEC) form U5B in response to Staff Data Request No. 1-4. Northern also requested a protective order for information contained in the form "relating to corporate balance sheets of Northern's affiliates." Specifically, Northern noted that certain entities within the NiSource family of companies are unregulated and operate in competitive markets. Northern's witness, Mr. DeVito testified in this docket "the SEC typically protects from public disclosure information contained in the U5B that constitutes financial information for various affiliates that is not otherwise publicly available." On March 5, 2002, the Hearing Examiner issued Temporary Protective Order No. 1 – Financial Information Regarding NiSource, Inc.'s Unregulated Affiliates, which designated the entire Form U5B filed with SEC as confidential information.

On May 13, 2002, the Commission issued a Supplemental Order in Docket No. 2001-646. The Supplemental Order included a 2-page Confidential Appendix in which details of the Staff's analysis of LDC industry's cash balances using a peer group and balance sheet data, some of which had been taken from the Confidential NiSource SEC Form U5B submitted in Docket No. 2002-21. The Appendix indicates total assets, current liabilities, and total capital for both Northern and its NiSource affiliate, Columbia Gas of Virginia and the manner in which these figures were used to develop the investment limit ordered by the Commission.

Recently, it has come to Staff's attention that NiSource's Form U5B is available on the SEC website and that balance sheet information for both Northern and Columbia Gas of Virginia are publicly displayed thereon. Certain other information in the form does not appear on the website and there are indications showing that the redacted information is considered confidential.

The Staff wishes to confirm its understanding that the balance sheet data and other information contained on Confidential Appendix related to Northern and Columbia Gas of Virginia has been publicly released on the SEC website and, therefore, does not warrant confidential treatment by the Commission.¹ Furthermore, Northern's recent comments filed in the Commission's rulemaking proceeding, Docket No 2002-385, stated that Northern's current position is that none of its Annual Report information filed with the Commission annually requires confidential treatment. Consequently, it appears that the balance sheet and other information related to Northern contained in the Confidential Appendix to our May 13th Supplemental Order in Docket No. 2001-646 does not require confidential treatment.

Northern should provide its views on the release of both the Confidential Appendix and its MPUC Annual Reports for 1999, 2000, and 2001, by February 17, 2003. If Northern agrees with Staff's conclusion, then we will remove Appendix pages 1 and 2 and those three annual reports from confidential treatment.

We do not propose to release the NiSource Form U5B that Northern provided as Attachment ODR 1-4 from protective treatment because, unlike the version of the form that appears on the SEC website, it contains confidential information about NiSource's unregulated subsidiaries. Rather, given that the document is lengthy, we propose to allow the full document to remain sealed and subject to the protections of Temporary Protective Order No. 1, with the understanding that any information contained within it that has been publicly released is not protected and may be revealed in Commission documents. Northern did not provide us with a redacted version of NiSource's U5B. However, because a final order was issued in this case and it is now closed, it appears unlikely that a redacted 2000 Form U5B will be needed. Northern need not provide the Commission with one, however, if we receive a request from a member of the public for the publicly available portions of NiSource's U5B, we may direct Northern to provide it at that time.

BY ORDER OF THE HEARING EXAMINER

Carol A. MacLennan

¹ The SEC Form U2B contains consolidated information for Northern's two divisions (Maine and New Hampshire), however, it appears that Maine Division information could be calculated with rough accuracy using it and Northern's New Hampshire Division annual reports.